IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Crl.MC.No. 3183 of 2007()

CP.156/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHALAKUDY

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PETITIONER: ACCUSED NO.2:

DAVIS, S/O. KURYAKOSE,
CHERUTHOTTIL HOUSE, CHEMPANKUNNU DESOM,
KUTTICHIRA VILLAGE, CHALAKUDY.

BY ADV. SMT.K.V.BHADRA KUMARI

RESPONDENT: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.M.C. No. 3183 Of 2007

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Dated this the 17th day of October, 2007

ORDER

Petitioner faces indictment in a prosecution under the Kerala Abkari Act. Investigation is complete. Final report has been filed. Cognizance has been taken. The petitioner has not entered appearance so far. Consequently coercive processes have been issued against the petitioner by the learned Magistrate. The petitioner finds such processes chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was not wilful. The petitioner is willing to surrender before the learned Magistrate and seek regular bail, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that appropriate directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not

consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE